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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 4th December, 2012:—

BILL NO. LXIII OF 2012

A Bill further to amend the Child Labour (Prohibition and Regulation) Act, 1986.

Be it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Child Labour (Prohibition and Regulation) Amendment Act, 2012.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

61 of 1986.

2. In the Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:—

Amendment of long title.

“An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto.”

Amendment of short title.

3. In section 1 of the principal Act, in sub-section (1), for the words, brackets and figures “the Child Labour (Prohibition and Regulation) Act, 1986”, the words, brackets and figures “the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986” shall be substituted.

61 of 1986.

Amendment of section 2.

4. In section 2 of the principal Act,—

(a) clause (i) shall be renumbered as clause (ia) thereof and before clause (ia) as so renumbered, the following clause shall be inserted, namely:—

‘(i) “adolescent” means a person who has completed his fourteenth year of age but has not completed his eighteenth year;’;

(b) for clause (ii), the following clause shall be substituted, namely:—

‘(ii) “child” means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more;’.

35 of 2009.

Substitution of new section for section 3.

5. For section 3 of the principal Act, the following section shall be substituted, namely:—

“3. No child shall be employed or permitted to work in any occupation or process:

Provided that nothing in this section shall apply where the child helps his family after his school hours or helps his family in fields, home-based work, forest gathering or attends technical institutions during vacations for the purpose of learning, but does not include any help or attending technical institutions where there is subordinate relationship of labour or work which are outsourced and carried out in home.”.

Insertion of new section 3A.

6. After section 3 of the principal Act, the following section shall be inserted, namely:—

“3A. No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule.”.

Prohibition of employment of adolescents in certain hazardous occupations and processes.

Amendment of section 4.

7. In section 4 of the principal Act, for the words “add any occupation or process to the Schedule”, the words “add to, or, omit from, the Schedule any hazardous occupation or process” shall be substituted.

Omission of Part III.

8. Part III of the principal Act shall be omitted.

Amendment of section 14.

9. In section 14 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:

Provided that the parents or guardians of such children shall not be punished unless they permit such child for commercial purposes in contravention of the provisions of section 3.

(IA) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3A shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:

Provided that the parents or guardians of such adolescent shall not be punished unless they permit such adolescent to work in contravention of the provisions of section 3A.”;

(b) in sub-section (2),—

(i) for the word and figure “section 3”, the words, figures and letter “section 3 or section 3A” shall be substituted;

(ii) for the words “six months but which may extend to two years”, the words “one year but which may extend to three years” shall be substituted;

(c) clauses (a), (b) and (c) of sub-section (3) shall be omitted.

10. After section 14 of the principal Act, the following section shall be inserted, namely:—

2 of 1974.

“14A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable.”.

Insertion of new section 14A.

Offences to be cognizable.

11. After section 17, the following sections shall be inserted, namely:—

Insertion of new sections 17A and 17B.

“17A. The appropriate Government may confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

17B. The appropriate Government shall make or cause to be made periodic inspection of the places at which the employment of children is prohibited and hazardous occupations or processes are carried out at such intervals as it thinks fit, and monitor the issues, relating to the provisions of this Act.”.

District Magistrate to implement the provisions.

12. In section 18 of the principal Act, in sub-section (2), for clauses (b), (c) and (d), the following clause shall be substituted, namely:—

“(b) the powers to be exercised and the duties to be performed by the officer specified and the local limits within which such powers or duties shall be carried out under section 17A.”.

Inspection and monitoring.

13. In the principal Act, for the Schedule, the following Schedule shall be substituted, namely:—

Amendment of section 18.

Substitution of new Schedule for the Schedule.

‘THE SCHEDULE

(See section 3A)

(1) Mines.

(2) Inflammable substances or explosives.

(3) Hazardous process.

Explanation.—For the purposes of this Schedule, “hazardous process” has the meaning assigned to it in clause (cb) of the Factories Act, 1948.’

STATEMENT OF OBJECTS AND REASONS

The Child Labour (Prohibition and Regulation) Act, 1986 provides for prohibition of the engagement of children in certain employments and for regulating the conditions of work of children in certain other employments.

2. Section 3 of the said Act, *inter alia*, provides that employment of children below the age of fourteen years is prohibited in any of the occupations or processes specified in the Schedule to the said Act. Section 6 of the said Act provides that the provisions of Part III of the Act (which relates with the regulation of conditions of work of children) shall apply to an establishment or a class of establishments in which none of the occupations referred to in section 3 is carried on.

3. It is proposed to prohibit employment of children in all occupations and processes to facilitate their enrolment in schools in view of the Right of Children to Free and Compulsory Education Act, 2009 and to prohibit employment of adolescents (persons who have completed fourteenth year of age but have not completed eighteenth year) in hazardous occupations and processes and to regulate the conditions of service of adolescents in line with the ILO Convention 138 and Convention 182, respectively.

4. The provisions of the Bill, *inter alia*, provide for—

(i) the amendment of the long title of the said Act in view of the proposed provision to prohibit employment of children below fourteen years in all occupations and processes and the proposed provision to prohibit employment of adolescents (persons who have completed fourteenth year of age but have not completed eighteenth year) in hazardous occupations and processes set forth in the proposed Schedule;

(ii) the amendment of the short title of the said Act in view of the insertion of the proposed new definition of “adolescent” whose employment in hazardous occupations and processes is also proposed to be prohibited;

(iii) the insertion of a new definition of “adolescent” that means a person who has completed his fourteenth year of age but not completed his eighteenth year in section 2 of the said Act;

(iv) the amendment of the definition of “child” to provide that child means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more;

(v) the amendment of section 3 of the said Act to prohibit employment of children in all occupations and processes except where the child helps his family after his school hours or helps his family in fields, home-based work, forest gathering or attends technical institutions during vacations for the purpose of learning, but does not include any help or attending technical institutions where there is subordinate relationship of labour or work which are outsourced and carried out in home;

(vi) the insertion of a new section 3A to prohibit employment of adolescents in any hazardous occupations and processes specified in the proposed Schedule;

(vii) the amendment of section 4 of the said Act to empower the Central Government to add or omit any hazardous occupations and processes from the Schedule to the proposed legislation;

(viii) the omission of Part III of the said Act in view of the prohibition of employment of children below fourteen years of age in all occupations and processes;

(ix) the amendment of sub-section (1) of section 14 to enhance the punishment from imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees, to imprisonment for a term which shall

not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both, for employment or permitting any children to work in any occupations or processes in contravention of section 3. However, the parents or guardians of such children shall not be liable for such punishment unless they permit such children for commercial purposes;

(x) the insertion of new sub-section (1A) in section 14 to provide punishment of imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both for employment or permitting to work any adolescent in any hazardous occupations or processes. However, the parents or guardians of such adolescents shall not be liable for punishment unless they permit such adolescents to work in contravention of the provisions of section 3A;

(xi) the amendment of sub-section (2) of section 14, which provides punishment for the convicted offender who commits a like offence afterwards, to enhance the minimum punishment existing therein from six months to one year and maximum punishment from two years to three years;

(xii) the insertion of a new section 14A to provide that the offences under the proposed legislation shall be cognizable notwithstanding anything contained in the Code of Criminal Procedure, 1973;

(xiii) the omission of the provisions of clauses (a) and (b) of sub-section (3) of section 14 of the Act in view of the prohibition of the employment of children below fourteen years in all occupations and processes;

(xiv) the insertion of new section 17A to empower the appropriate Government to confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of the proposed legislation are properly carried out and to empower the District Magistrate to specify the officer subordinate to him who shall exercise all or any of the powers and perform all or any of the duties so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer in accordance with the rules made by the appropriate Government;

(xv) the insertion of new section 17B which empowers the appropriate Government to make periodic inspection or cause such inspection to be made, of the places at which the employment of the children is prohibited and the hazardous occupation or process are carried out, at such intervals as it thinks fit and monitor the issues relating to the provisions of the Act; and

(xvi) the substitution of the existing Schedule to the Act by new Schedule in view of the prohibition of children in all occupations and processes and regulation of employment of adolescents in hazardous occupations and processes.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 21st November, 2012.

MALLIKARJUN KHARGE.

SHUMSHER K. SHERIFF,
Secretary-General.